

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM A. THAYER
 CONSTRUCTION, INC.,

Plaintiff,

v.

NORTH AMERICAN CAPACITY
 INSURANCE COMPANY, and DOES 1-
 10,

Defendant.

CASE NO: CV10-01019 LHK ADR

**STIPULATION; and [Proposed] ORDER
 CONTINUING DISCOVERY AND
 MOTION CUT-OFF DATES**
as modified by the Court

Judge: Hon. Lucy H. Koh
 Courtroom: 4
 Complaint Filed: 02/10/2010
 Trial Date: 07/11/2011

WHEREAS, counsel for Plaintiff and Defendant have conferred regarding continuing the scheduled discovery and motion cut-off dates in order to pursue settlement efforts.

In light of the current time perimeters and the parties' immediate desire to attempt to resolve the case, the parties move to continue the discovery cut-off and dispositive motion deadline two weeks from their scheduled dates to March 14, 2011 and March 31, 2011, respectively.

In that regard, counsel have had multiple discussions over the last few days regarding settlement, but are currently engaged in completing discovery. As a result, settlement dialogue and more importantly, attending a mediation, is impacted by this and the discovery cut-off date of February 28, 2011. The parties have been actively participating in discovery, including depositions, extensive document production and experts. Presently, additional percipient depositions, along with the experts, remain to be completed. It is proposed that all these events be put off until after the mediation. The parties anticipate the mediation will occur by February 28, 2011 with private

mediator, Tom Denver of Mediation Masters. However, this would need to be conditioned upon the court's willingness to continue the discovery dates as requested. This will allow the parties to focus on settlement efforts, as well as avoid the cost involved with the remaining discovery.

In addition and since the parties are contemplating filing Summary Judgments, it is also necessary to continue the dispositive motion cut off in the same manner.

At the last case management hearing, Judge Koh encouraged the parties to pursue settlement efforts and offered the court's assistance in this regard. After conducting the discovery to date, the parties believe they are in a position to participate in good faith settlement negotiations. Finally, the short continuance would not affect the court's scheduled trial date.

Dated: 2-11-10

GRIMM VRANJES
McCORMICK & GRAHAM LLP

BY: 

MARK VRANJES
MICHAEL B. MARTIN
TODD E. JAWORSKY
Attorney for Defendant NORTH AMERICAN
CAPACITY INSURANCE COMPANY

Dated: 2-11-11

LAW OFFICES OF JACK KENEALY

BY: 

JACK KENEALY
CECILIA MODELMOG
Attorney for Plaintiff WILLIAM A. THAYER
CONSTRUCTION, INC.

///

///

///

///

///

///

///

1 Accordingly, the discovery dates in this action shall be continued as follows:

2 Discovery cut-off: March 14, 2011

3 Dispositive motion cut-off: March 31, 2011

4 Dispositive motion hearing date: **May 12, 2011, at 1:30 p.m.**

5 **Pretrial Conference is continued to June 22, 2011, at 2 p.m.**

6 **The trial date remains as set on July 11, 2011. Any further requests for continuances will be disfavored.**

7 PURSUANT TO STIPULATION, IT IS SO ORDERED.

8 Dated: February 15, 2011

9 
United States District Judge

10 S:\Cases\2166083\pld\cont disc dates stip 2 wks.wpd